

§ 19.269

abatement, credit, and refund of tax, filed under the provisions of this part. (26 U.S.C. 5008)

RULES FOR PUERTO RICAN AND VIRGIN ISLANDS SPIRITS

§ 19.269 Puerto Rican and Virgin Islands spirits.

(a) The provisions of 26 U.S.C. 5008, authorizing abatement, remission, credit, or refund for loss or destruction of distilled spirits, also apply to spirits brought into the United States from Puerto Rico or the Virgin Islands with respect to the following:

- (1) Spirits lost while in TTB bond;
- (2) Voluntary destruction of spirits in bond;
- (3) Spirits returned to bonded premises after withdrawal without payment of tax; and
- (4) Spirits returned to bonded premises after withdrawal upon tax determination.

(b) In addition to the information required by § 19.263, claims relating to spirits lost in bond must show the name of the producer and the serial number and date of the formula under which produced, if any.

(26 U.S.C. 5008, 5215)

Subpart K—Gauging

§ 19.281 Scope.

This subpart covers gauging, which is the determination of the quantity and the proof of distilled spirits. Topics covered in this subpart include: The general requirements for gauging; when gauges are required at distilled spirits plants; and special rules that apply to the gauges performed at distilled spirits plants. For additional requirements and procedures governing gauging, see part 30 of this chapter, Gauging Manual.

§ 19.282 General requirements for gauging and measuring equipment.

A proprietor is required to perform periodic gauges of the spirits, wines, and alcoholic flavorings at the plant. A proprietor must have accurate and readily usable gauging and measuring equipment as required by this part and part 30 of this chapter. At any time,

27 CFR Ch. I (4–1–16 Edition)

TTB may require that the proprietor's gauges be performed in the presence of, and be verified by, a TTB officer. In addition, TTB may disapprove the use of any equipment, or the proprietor's means of gauging, if TTB finds that it is not sufficiently accurate or suitable for the gauges and measurements to be made.

(26 U.S.C. 5006, 5204)

REQUIRED GAUGES

§ 19.283 When gauges are required.

The proprietor must gauge spirits, wine, and alcoholic flavoring materials when required to do so by the appropriate TTB officer or when the spirits, wine, or flavoring materials are:

- (a) Produced and entered for deposit;
- (b) Filled into packages from storage tanks;
- (c) Transferred or received in bond;
- (d) Transferred between operational accounts;
- (e) Mixed in the manufacture of a distilled spirits product;
- (f) Mingled under § 19.329;
- (g) Reduced in proof before bottling;
- (h) Voluntarily destroyed;
- (i) Removed or withdrawn from bond;
- (j) Tax determined;
- (k) Returned to bond; or
- (l) Denatured.

(26 U.S.C. 5204, 5559)

RULES FOR GAUGING

§ 19.284 Quantity determination of bulk spirits.

(a) *Gauge of spirits in packages.* When determining the quantity of bulk spirits in packages, the proprietor must determine the quantity by weight as provided in part 30 of this chapter.

(b) *Bulk gauge for tax determination.* When determining the quantity of bulk spirits for determination of tax or when performing a production gauge that will be used for tax determination, the proprietor must determine the quantity by weight as provided in part 30 of this chapter or by an accurate mass flow meter. For tax determination purposes, an accurate mass flow meter is a mass flow meter that has been certified by the manufacturer or other qualified person as accurate

within a tolerance of plus or minus 0.1 percent.

(c) *Volumetric determination.* Except as provided in paragraphs (a) and (b) of this section, in all other instances when the proprietor is required to gauge bulk spirits in bond, the proprietor may determine the quantity by either weight or volume. When the proprietor determines the quantity by volume, the proprietor must measure the spirits by using:

(1) A tank or bulk conveyance for which a calibration chart is provided, with the calibration charts certified as accurate by persons qualified to calibrate tanks or bulk conveyances; or

(2) An accurate mass flow meter. For purposes of this paragraph, an accurate mass flow meter is a mass flow meter that has been certified by the manufacturer or other qualified person as accurate within a tolerance of plus or minus 0.5 percent; or

(3) Another device or method approved by the appropriate TTB officer.

(26 U.S.C. 5559)

§ 19.285 Proof determination of distilled spirits.

(a) *Proof.* Except as provided in paragraph (b) of this section, when the proprietor is required to gauge distilled spirits, the proprietor must determine the proof in accordance with the procedures prescribed in part 30 of this chapter, Gauging Manual.

(b) *Use of Initial proof.* After a proprietor has determined the proof of distilled spirits in accordance with the procedures in part 30 of this chapter, a proprietor may use the initial determination of proof when required to make a later gauge at the same plant. However, a proprietor must determine the proof again when:

(1) A bottling tank gauge is required by § 19.353;

(2) A gauge for tax determination is required by § 19.226; or

(3) In any case where the proof may have changed.

(26 U.S.C. 5559)

§ 19.286 Gauging of spirits in bottles.

When gauging spirits in bottles, the proprietor may determine the proof and quantity from case markings and

label information if the bottles are full and there is no evidence that tampering has occurred.

(26 U.S.C. 5204, 5559)

§ 19.287 Gauging of alcoholic flavoring materials.

Generally, alcoholic flavoring material must be gauged when dumped. However, when received from a manufacturer in a closed, nonporous container such material may be gauged by using the proof shown on the container label or a related statement of proof from the manufacturer. When the proof is determined from a label or manufacturer's statement, the proprietor will test a sufficient number of samples to verify the accuracy of the proof so determined. TTB may require that alcoholic flavoring materials be gauged by the methods provided in part 30 of this chapter.

(26 U.S.C. 5204, 5559)

§ 19.288 Determination of tare.

When packages are to be individually gauged for withdrawal from bonded premises, the actual tare must be determined in accordance with part 30 of this chapter.

(26 U.S.C. 5204)

§ 19.289 Production gauge.

(a) *General requirements for production gauges.* A proprietor must gauge all spirits by determining the quantity and proof as soon as reasonably possible after production is completed. Except as otherwise provided in this section, a proprietor may determine the quantity by volume or by weight, by an accurate mass flow meter, or when approved by the appropriate TTB officer, by other devices or methods that accurately determine the quantities. If caramel is added to brandy or rum, the proof of the spirits must be determined after the addition. Spirits in each receiving tank will be gauged before any reduction in proof and both before and after each removal of spirits. The gauges must be recorded in the records required by § 19.585.

(b) *Tax to be determined on production gauge.* If the tax is to be determined based on the production gauge, all transaction records must be marked